

UNITED STATE DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

PENNY BENTON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CASE NO.: 1:10-cv-918-LJM-DML
	)	
HAMILTON EAST PUBLIC LIBRARY,	)	
	)	
Defendant.	)	

**AMENDED COMPLAINT and DEMAND FOR JURY TRIAL**

Comes now Plaintiff, Penny Benton, by counsel, and for her Amended Complaint and Demand for Trial by Jury, state as follows:

**I. INTRODUCTION**

This is an action brought by Plaintiff against Hamilton East Public Library (“Defendant”). Defendant violated Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. Sec. 2000e *et seq.*, when it terminated Plaintiff’s employment. Defendant violated Title VII when it took retaliatory measures against Plaintiff for complaining about the more favorable treatment given to Defendant’s employees who were not African-American.

**II. PARTIES**

1. At all times relevant to this litigation, Plaintiffs resided within the geographical boundaries of the Southern District of Indiana.
2. At all times relevant to this litigation, Defendant is an Indiana corporation which maintained offices and conducted business within the geographical boundaries of the Southern District of Indiana.

### **III. JURISDICTION AND VENUE**

3. Jurisdiction is conferred on this Court by 42 U.S.C. Sec. 2000e-5, 28 U.S.C. Sec. 1331, and 28 U.S.C. Sec. 1343.

4. Plaintiff is an “employee” as that term is defined by 42 U.S.C. Sec. 2000e(f).

5. Defendant is an “employer” as that term is defined by 42 U.S.C. Sec. 2000e(b).

6. Plaintiff satisfied her obligation to exhaust her administrative remedies by having timely filed U.S. Equal Employment Opportunity Commission Charge No. 470-2008-01248. Plaintiff received her Dismissal and Notice of Rights and timely files this action.

7. All of the events, transactions, and occurrences pertinent to this lawsuit have occurred within the geographical environs of the Southern District of Indiana, and all parties are located therein. Therefore, venue is proper in this Court pursuant to 28 U.S.C. Sec. 1391.

### **VI. FACTUAL ALLEGATIONS**

8. Plaintiff is an African-American female who was originally hired by Defendant in December of 2006.

9. At all times relevant, Plaintiff met or exceeded Defendant’s legitimate performance expectations.

10. At all times relevant, Plaintiff was the only African-American employee of Defendant.

11. Defendant would subject Plaintiff to different standards for work performance than other similarly-situated employees.

12. Defendant would discipline Plaintiff for alleged conduct which other similarly-situated employees were not disciplined for engaging in the same conduct.

13. In May 2008, Plaintiff brought the unequal treatment to the attention of Defendant's management; however, such unequal treatment continued.

14. On or about August 18, 2008, Plaintiff filed a Charge of Discrimination with the EEOC alleging discrimination based upon race and retaliation.

15. Plaintiff subsequently filed a formal *pro se* lawsuit against Defendant in the United District Court for the Southern District of Indiana, Case Number 1:09-cv-00496-RLY-TAB, which was ultimately settled by the parties on or about December 7, 2009.

16. Defendant's unequal treatment of Plaintiff continued and Defendant ultimately terminated Plaintiff's employment on March 31, 2010.

## V. LEGAL CLAIMS

### COUNT 1: *Disparate Treatment under Title VII*

17. Plaintiff hereby incorporates the foregoing paragraphs one (1) through sixteen (16) of her Amended Complaint and, in addition, alleges and states that Defendant's actions violated Title VII of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000e *et seq.*, as amended.

18. Defendant intentionally discriminated against Plaintiff by treating similarly-situated employees who were not African-American more favorably.

19. Defendant's actions were intentional, malicious, and done with reckless disregard to Plaintiff's federally protected rights to be free from discrimination on the basis of race.

20. Plaintiff has suffered, and will continue to suffer, harm as a result of Defendant's unlawful actions.

**COUNT 2: Unlawful Retaliation under Title VII**

21. Plaintiff hereby incorporates paragraphs one (1) through twenty-one (21) of their Amended Complaint and, in addition, alleges and states that Defendant retaliated against her for complaining about discriminatory treatment, which is also a violation of Title VII.

22. Plaintiff voiced opposition to Defendant's practices and conduct which she reasonably believed to be discriminatory on the basis of race. Plaintiff's complaints of discrimination constitute conduct protected under Title VII.

23. As a result of voicing such opposition, Defendant willfully and intentionally, with malice and/or reckless disregard of Plaintiffs' rights, retaliated against Plaintiff.

24. Plaintiff has suffered, and will continue to suffer, harm as a result of Defendant's unlawful actions.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays that the Court find in her favor and order the following relief:

A. Order that Plaintiff be awarded damages sufficient to compensate her for all lost wages and benefits;

B. Order compensatory damages at the statutory maximum for substantive claims under Title VII;

C. Order that Plaintiff be awarded her attorney fees and costs;

D. Order that Plaintiff be awarded pre- and post-judgment interest; and

E. Order all other monetary and/or equitable relief that the Court deems just and proper in the premises.

**DEMAND FOR JURY TRIAL**

Plaintiff, by counsel, respectfully requests a jury trial for all issues deemed so triable.

Respectfully submitted,

RAMEY & HAILEY

*/s/ Joel S. Paul*

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